

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RICHARD HAMMONS,

Plaintiff,

MEMORANDUM & ORDER
10-CV-2506 (JS)(ARL)

-against-

THE STATE OF NEW YORK,

Defendant.

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APPEARANCES:

For Plaintiff: Joseph C. Stroble, Esq.
40 Main Street
P.O. Box 596
Sayville, NY 11782

For Defendant: Ralph Pernick, Esq.
New York State Attorney General
200 Old County Road, Suite 240
Mineola, NY 11501

SEYBERT, District Judge:

Pending before the Court is Defendant New York State's motion to dismiss. That motion is GRANTED.

DISCUSSION

On June 2, 2010, Plaintiff Richard Hammons filed suit against New York, alleging that New York violated his constitutional rights by subjecting him to an illegal period of post-release supervision, which a state court eventually vacated. New York responded to the Complaint by filing a two-page letter motion seeking dismissal on Eleventh Amendment grounds. Mr. Hammons opposed New York's motion through a one-page, three-sentence letter.

The Court agrees that the Eleventh Amendment precludes this suit. "The Eleventh Amendment bars such a federal court action against a state or its agencies absent a waiver of immunity or congressional legislation specifically overriding immunity." Mamot v. Bd. of Regents, 367 Fed. Appx. 191, 192 (2d Cir. 2010). Here, Mr. Hammons has sued New York alleging constitutional violations under 42 U.S.C. § 1983, but "[i]t is well-established that New York has not consented to § 1983 suits in federal court, and that § 1983 was not intended to override a state's sovereign immunity." Id. (internal citations omitted). Indeed, in just the past several months, other district courts have dismissed similar suits on Eleventh Amendment grounds. See, e.g., Baker v. City of New York, 09-CV-10604, 2010 WL 4273269, at *3 (S.D.N.Y. Oct. 29, 2010) (Eleventh Amendment barred claims arising from allegedly illegal post-release supervision); Williams v. Fischer, 08-CV-4612, 2010 WL 3924688, at *4 (E.D.N.Y. Sep. 30, 2010) (Eleventh Amendment barred suit against state employees acting in their official capacities in connection with administratively imposed post-release supervision). And Mr. Hammons' three-sentence opposition gives the Court no reason to reach a different conclusion.

Consequently, Mr. Hammons' Complaint is DISMISSED. The Clerk of the Court is directed to mark this matter as CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: December 14, 2010
Central Islip, New York